

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

In Re:)
ANGELA Y. GANTT,)
)
Debtor,)
)
AUTO ACCEPTANCE and,)
A & M FURNITURE MART, INC.,)
)
Appellants,)
)
v.)
)
)
SECURITY NATIONAL CONSUMER)
SERVICES, LLC, as successor to)
SUNSTAR ACCEPTANCE)
CORPORATION,)
)
Appellee.)

FILED

MAR 26 2001

CLERK
U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.

Civil Action No. 00-A-1334-N

MEMORANDUM OPINION

I. INTRODUCTION

This case is before the court on appeal from a decision by the United States Bankruptcy Court for the Middle District of Alabama, Case No. 97-2981-DHW. On July 19, 2000, the bankruptcy court issued an order holding, inter alia, that the doctrine of laches barred Appellants', Auto Acceptance and A & M Furniture Mart, Inc. ("Appellants"), objections to the proof of claim filed by Appellee Services National Consumer Services, LLC, as successor to Sunstar Acceptance Corporation ("Appellee"). Appellants appeal the bankruptcy court's decision to this court pursuant to 28 U.S.C. § 158(a). For the reasons stated below, the court finds that the bankruptcy court's order is due to be AFFIRMED.

II. BACKGROUND

This case arises from Angela Y. Gantt's ("Debtor") Chapter 13 bankruptcy proceedings. On June 17, 1997, Debtor filed a petition for relief under Chapter 13 of the United States Bankruptcy Code. Debtor's bankruptcy schedule reflected that she owned no real property and no substantial property other than a 1994 Mitsubishi Eclipse subject to Appellee's security interest. The bankruptcy schedule listed the Eclipse's value at \$9,000. On August 1, 1997, the bankruptcy court confirmed Debtor's Chapter 13 plan.

On June 30, 1997, the bankruptcy clerk sent notice to all creditors, including Appellee, that the deadline for filing a proof of claim was October 15, 1997. Appellee did not file a proof of claim until January 5, 1998. The claim includes a secured claim in the amount of \$9,000 and an unsecured claim in the amount of \$4,122.31. No objections to the proof of claim were filed, and the trustee commenced payments on the secured portion of the claim.

Two years later, on March 23, 2000, Appellants who are unsecured creditors and who had filed timely proofs of claim filed an objection to Appellee's proof of claim, alleging that the claim was untimely. By the time of this objection, the trustee had already paid a total of \$8076.57 on the secured portion of Appellee's claim and had not paid anything on the unsecured portion of Appellee's claim.

After receiving written briefs and hearing oral arguments, the bankruptcy court issued an order denying Appellants' objection in part and sustaining Appellants' objection in part. In that order, the bankruptcy judge concluded that a secured creditor, such as Appellee, must file a proof of claim and that a secured claim must be filed within the deadline for filing a proof of claim. Consequently, Appellee's proof of claim was untimely. The court, however, determined that the

equitable doctrine of laches barred Appellants' objection to the secured portion of Appellee's proof of claim because the two-year delay was inexcusable and acceptance of the objection would result in undue prejudice to Appellee. As to the unsecured portion of Appellee's proof of claim, the bankruptcy court sustained Appellants' objection. The bankruptcy court also denied Appellants' motion to modify Debtor's Chapter 13 plan. In turn, Appellants filed a timely appeal to this court.

Subsequent to the filing of this appeal, the bankruptcy court granted Appellants' motion to stay dismissal pending this appeal. Afterwards, Gantt converted her Chapter 13 case to a Chapter 7 bankruptcy proceeding. The parties filed multiple motions and the bankruptcy court entered an order on October 11, 2000, that maintained "the status quo as not to moot" the instant appeal.

III. STANDARD OF REVIEW

A district court reviews a bankruptcy court's factual findings under the clearly erroneous standard. In re Thomas, 883 F.2d 991, 994 (11th Cir. 1989). "For a factual finding to be clearly erroneous, this court, after reviewing all of the evidence, must be left with the definite and firm conviction that a mistake has been committed." General Trading, Inc. v. Yale Materials Handling Corp., 119 F.3d 1485, 1494 (11th Cir. 1997). In contrast, a district court reviews de novo a bankruptcy court's conclusions of law. In re Simmons, 220 F.3d 738, 741 (11th Cir. 2000). Equitable determinations by a bankruptcy court are subject to review under an abuse of discretion standard. In re General Dev. Corp., 84 F.3d 1364, 1367 (11th Cir. 1996).

IV. DISCUSSION

On appeal, Appellants contend that the bankruptcy court erred in finding that the doctrine

of laches barred their objection to the secured portion of Appellee's untimely proof of claim.

First, Appellants contend that the doctrine of laches may not bar an objection to a proof of claim.

Alternatively, Appellants argue that the bankruptcy court circumvented 11 U.S.C. § 502(b)(9)'s bar on an untimely proof of claim by disallowing Appellants' objection to Appellee's untimely proof of claim.

The court recently addressed these same issues in In re: Jackson, Civil Action No. 00-A-1162-N (M.D. Ala. Dec. 15, 2000) appeal pending Case No: 01-10180-GG, which is attached to this order as Appendix 1. In In re: Jackson, the court held that although the Bankruptcy Code and Rules impose no time limit on the filing of an objection, an objection to a proof of claim is subject to the equitable doctrine of laches. Id. at 5-6. The court next determined that a bankruptcy court does not circumvent § 502(b)(9)'s bar on an untimely proof of claim, by disallowing an objection based on the doctrine of laches and in turn permitting an untimely claim. The court reasoned that:

An analysis of § 502, however, reveals that the bankruptcy court did not circumvent § 502. Section 502(a) provides that "[a] claim or interest, proof of which is filed . . . is deemed allowed, unless a party in interest . . . objects." The language of § 502(a) clearly puts the burden of raising the timeliness issue on the challenging party. Consequently, section 502(a) allows a late claim, unless a party in interest objects. In re Greenig, 152 F.3d 631, 633 (7th Cir. 1998); In re Jensen, 232 B.R. 118, 120 (Bankr. N.D. Ind. 1999).

Although GMAC filed an untimely proof of claim, that proof of claim is allowed, unless a party in interest objects. Because the bankruptcy court held that the doctrine of laches barred the objection, Hollis did not file a valid objection to GMAC's proof of claim. Without a valid objection, section 502(a) allows GMAC's untimely proof of claim. Therefore, the bankruptcy court did not contravene § 502(a).

Id. at 6-7. Based on In re: Jackson, the court finds that an objection to a proof of claim is subject to the doctrine of laches and that the bankruptcy court did not circumvent § 502(b)(9) by

disallowing Appellants' objection based on the doctrine of laches and in turn permitting Appellee's untimely claim. Therefore, the bankruptcy court's decision is due to be AFFIRMED.¹

V. CONCLUSION

For the reasons stated above, the court finds no error on the part of the bankruptcy court's decision to bar Appellants' objection to the secured portion of Appellee's proof of claim based on the doctrine of laches. Accordingly, the bankruptcy court's decision is due to be AFFIRMED, and a separate Order and Judgment will be entered in accordance with this Memorandum Opinion.²

Done this 24 day of March, 2001.


W. HAROLD ALBRITTON
CHIEF UNITED STATES DISTRICT JUDGE

ATTEST: A True Copy. 3/26, 2001.
Certified to _____
Clerk, U.S. District Court,
Middle District of Alabama
BY Judith A. Caple
Deputy Clerk

¹Because the court finds that the bankruptcy court did not err in barring Appellants' objection based on the doctrine of laches, the court finds that the bankruptcy court properly denied Appellants' motion to modify the bankruptcy plan.

²Since Appellants' brief and the bankruptcy court opinion sufficiently present the issues, Appellants' Request for Oral Argument is due to be DENIED.